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8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2013-171

11 **KENNETH PAUL RIEK**

12 33344 Rose Avenue  
13 Acton, CA 93510-1439

**A C C U S A T I O N**

14 Registered Nurse License No. 508296

15 Respondent.  
16

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her  
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
21 Consumer Affairs.

22 2. On or about February 8, 1995, the Board of Registered Nursing issued Registered  
23 Nurse License Number 508296 to Kenneth Paul Riek ("Respondent"). The Registered Nurse  
24 License expired on September 30, 2006, and has not been renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Registered Nursing (Board),  
27 Department of Consumer Affairs, under the authority of the following laws. All section  
28 references are to the Business and Professions Code unless otherwise indicated.

1           4.    Section 2750 of the Business and Professions Code ("Code") provides, in pertinent  
2 part, that the Board may discipline any licensee, including a licensee holding a temporary or an  
3 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the  
4 Nursing Practice Act.

5           5.    Sections 118 subdivision (b) of the Code grants the Board jurisdiction over  
6 suspended, expired, forfeited, cancelled, or surrendered licenses:

7           "The suspension, expiration, or forfeiture by operation of law of a license issued by a  
8 board in the department, or its suspension, forfeiture, or cancellation by order of the  
9 board or by order of a court of law, or its surrender without the written consent of the  
10 board, shall not, during any period in which it may be renewed, restored, reissued, or  
11 reinstated, deprive the board of its authority to institute or continue a disciplinary  
proceeding against the licensee upon any ground provided by law or to enter an order  
suspending or revoking the license or otherwise taking disciplinary action against the  
licensee on any such ground."

12           6.    Section 2764 of the Code provides, in pertinent part, that the expiration of a license  
13 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the  
14 licensee or to render a decision imposing discipline on the license.

15           7.    Under Section 2811 subdivision (b) of the Code, the Board may renew an expired  
16 license at any time within eight years after the expiration.

17           8.    California Code of Regulations, title 16, section 1419.3 states:

18           "In the event a licensee does not renew his/her license as provided in  
19 Section 2811 of the code, the license expires. A licensee renewing pursuant to this  
section shall furnish a full set of fingerprints as required by and set out in section  
1419(b) as a condition of renewal.

20           (a) A licensee may renew a license that has not been expired for more  
21 than eight years by paying the renewal and penalty fees as specified in Section 1417  
22 and providing evidence of 30 hours of continuing education taken within the prior  
two-year period.

23           (b) A licensee may renew a license that has been expired for more than  
24 eight years by paying the renewal and penalty fees specified in Section 1417 and  
25 providing evidence that he or she holds a current valid active and clear registered  
26 nurse license in another state, a United States territory, or Canada, or by passing the  
Board's current examination for licensure."

27           9.    Section 2761 of the Code states, in pertinent part:

28           "The board may take disciplinary action against a certified or licensed  
nurse or deny an application for a certificate or license for any of the following:

          (a) Unprofessional conduct, which includes, but is not limited to, the

following:

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action."

10. Section 2762 of the Code states in pertinent part:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

(d) Be committed or confined by a court of competent jurisdiction for intemperate use of or addiction to the use of any of the substances described in subdivisions (a) and (b) of this section, in which event the court order of commitment or confinement is prima facie evidence of such commitment or confinement.

(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section."

#### **COST RECOVERY**

11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Disciplinary Action by the Illinois Board of Nursing)**

3 12. Respondent is subject to disciplinary action under section 2761, subdivision (a)(4) on  
4 the grounds of unprofessional conduct in that Respondent was disciplined by the State of Illinois,  
5 Department of Financial and Professional Regulation, Division of Professional Regulation  
6 ("Illinois Board"), as follows:

7 13. On or about November 18, 2008 the Illinois Board approved a Consent Order signed  
8 by the Respondent, placing Respondent's Registered Nurse license on probation with terms and  
9 conditions. The circumstances underlying the disciplinary action by the Illinois Board are that  
10 Respondent diverted controlled substances from Northwestern Community Hospital in Arlington  
11 Heights, Illinois. As part of the Consent Order, Respondent admitted the allegations in the  
12 Complaint, as follows:

13 a. On or about June 1, 2005, through July 20, 2005, the Respondent was employed  
14 as a Registered Nurse for Northwest Community Hospital in Arlington Heights, Illinois.

15 b. On or about June 1, 2005, through June 30, 2005, the Respondent's patient  
16 medication usage was higher than other registered nurses on the floor.

17 c. On or about June 1, 2005, through June 30, 2005, the Respondent diverted  
18 Dilaudid, Fentanyl and Hydromorphone from Northwest Community Hospital for his personal  
19 use.

20 d. Respondent's use or addiction to controlled substances results in his inability to  
21 practice with reasonable judgment, skill and safety.

22 14. Under Section 2761 subdivision (a)(4) of the Code, the Illinois Board's disciplinary  
23 action against Respondent for diverting controlled substances is grounds for the California Board  
24 to take disciplinary action.

25 **SECOND CAUSE FOR DISCIPLINE**

26 **(Unprofessional Conduct)**

27 15. Respondent is subject to disciplinary action under section 2761, subdivision (a) of the  
28 Code on the grounds of unprofessional conduct in that Respondent diverted controlled substances

1 from Northwestern Community Hospital in Arlington Heights, Illinois. The circumstances are  
2 described in more particularity in paragraphs 12 through 14, above, inclusive and herein  
3 incorporated by reference.

4 **THIRD CAUSE FOR DISCIPLINE**

5 **(Drug Related Transgressions)**

6 16. Respondent is subject to disciplinary action under section 2762, subdivision (a) on the  
7 grounds of unprofessional conduct in that Respondent obtained or possessed controlled  
8 substances, in violation of the law. The transgressions are described in more particularity in  
9 paragraphs 12 through 14, above, inclusive and herein incorporated by reference.

10 **PRAYER**


11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
12 and that following the hearing, the Board of Registered Nursing issue a decision:

13 1. Revoking or suspending Registered Nurse License Number 508296, issued to  
14 Kenneth Paul Riek;

15 2. Ordering Kenneth Paul Riek to pay the Board of Registered Nursing the reasonable  
16 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
17 Code section 125.3;

18 3. Taking such other and further action as deemed necessary and proper.  
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21

22 DATED: September 6, 2012

*for*   
LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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